

302 KAR 34:020. Bonding requirements.

RELATES TO: KRS 251.451, 251.720

STATUTORY AUTHORITY: KRS 251.700

NECESSITY, FUNCTION, AND CONFORMITY: To clarify KRS 251.720 relating to the bonding requirements for a grain dealer who is also in the business of storing grain and is a warehouseman.

Section 1. Any grain dealer who is also in the business of storing grain and is a warehouseman subject to KRS 251.720(3) shall:

(1) First compute his bond in principal amount pursuant to the formula for computing a grain dealer bond as set out in KRS 251.720(3). Such bond shall not be less than \$25,000 nor more than \$100,000 except as otherwise authorized by this administrative regulation. A certificate of deposit payable to the commissioner, as trustee, may be filed with the department in lieu of a surety bond. The principal amount of the certificate of deposit shall be the same as that required for a surety bond under this administrative regulation and the interest thereon shall be made payable to the purchaser thereof.

(2) Next compute his bond by multiplying the total maximum bushel capacity of his warehouse facility by twenty-five (25) cents as set out in KRS 251.451(1) which shall constitute the first step in considering storage capacity and storage obligations required by KRS 251.720(10). A certificate of deposit payable to the commissioner, as trustee, may be filed with the department in lieu of a surety bond. The principal amount of the certificate of deposit shall be the same as that required for a surety bond under this administrative regulation and the interest thereon shall be made payable to the purchaser thereof.

Section 2. If the dollar amount computed pursuant to Section 1(1) of this administrative regulation is larger than the dollar amount computed pursuant to Section 1(2) of this administrative regulation then the bond computation figured pursuant to Section 1(1) of this administrative regulation shall be the dollar amount of the bond required pursuant to KRS 251.720(10). If the person whose bond amount is computed pursuant to Section 1(1) of this administrative regulation and required pursuant to this section is of the opinion that his net worth and assets are sufficient to provide payment to producers for grain purchased or stored, that person may request the commissioner to be relieved of a portion of the bond in accordance with the formula for bond reduction set out in KRS 251.720(6). Such request for bond reduction shall include all information that is or may be required pursuant to KRS 251.720(6).

Section 3. If the dollar amount computed pursuant to Section 1(2) of this administrative regulation is larger than the dollar amount computed pursuant to Section 1(1) of this administrative regulation then the bond computation figured pursuant to Section 1(2) of this administrative regulation shall be the dollar amount of the bond required pursuant to KRS 251.720(10). Such bond computation shall constitute the second step in considering storage capacity and storage obligations pursuant to KRS 251.720(10) and shall be required if this section is used to compute the bond required by this administrative regulation. If the person whose bond amount is computed pursuant to Section 1(2) of this administrative regulation and required pursuant to this section is of the opinion that his net worth and assets are sufficient to provide payment to producers for grain purchased or stored, that person may request the commissioner to be relieved of a portion of \$100,000 of the bond required by this section, which represents the maximum amount of bond required by a grain dealer without consideration of storage capacity and storage obligations required by KRS 251.720(10). The maximum bond reduction allowed pursuant to this section shall be \$75,000. The formula for such bond reduction shall be in accordance with the bond reduction formula set out in KRS 251.720(6). Any request for

bond reduction shall include all information that is or may be required pursuant to KRS 251.720(6).

Section 4. Any bond written or certificate of deposit prepared pursuant to this administrative regulation must be written and executed so as to cover losses to claimants resulting from the failure of a grain warehouseman and/or the failure of a grain dealer as defined in Chapter 251 of the Kentucky Revised Statutes. Such bond must be written so as to cover loss for both stored grain and all other grain which has been sold but for which payment has not been received at the time of the grain dealer and/or grain warehouse failure. (11 Ky.R. 1006; eff. 1-7-85.)